



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 4, 2010

Ms. Katie Lentz  
Open Records  
Williamson County Sheriff's Office  
508 South Rock Street  
Georgetown, Texas 78626

OR2010-08090

Dear Ms. Lentz:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 381586.

The Williamson County Sheriff (the "sheriff") received a request for the requestor's applications for two specified jobs and any other attached papers. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.122, 552.130, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses laws that make criminal history record information ("CHRI") confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. Open Records Decision No. 565 at 7 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* Section 411.083 of the Government Code deems confidential CHRI the Department of Public Safety ("DPS") maintains, except DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov't Code § 411.083. Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency

to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *Id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090-.127. Similarly, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. The term CHRI does not include driving record information maintained by the DPS. Gov't Code § 411.082(2)(B). Upon review, we find that the information we have marked constitutes CHRI for the purposes of chapter 411. Therefore, the sheriff must withhold the information we have marked under section 552.101 on that basis. However, none of the remaining information you have marked constitutes CHRI for the purposes of chapter 411 and may not be withheld on that basis.

Section 552.122(b) excepts from disclosure test items developed by a licensing agency or governmental body. In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes "any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated," but does not encompass evaluations of an employee's overall job performance or suitability. ORD 626 at 6. The question of whether specific information falls within the scope of section 552.122(b) must be determined on a case-by-case basis. *Id.* Traditionally, this office has applied section 552.122 where release of "test items" might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976). Section 552.122 also protects the answers to test questions when the answer might reveal the questions themselves. *See* Attorney General Opinion JM-640 at 3 (1987); ORD 626 at 8.

You seek to withhold the Entrance Level Examination of the sheriff's office under section 552.122 of the Government Code. You explain that the exam tests individuals who apply for a position with the sheriff. We understand that the exam is used on a continuing basis and release of this information would compromise the effectiveness of future exams. Having reviewed the submitted information and your arguments, we find the exam questions you have marked are "test items" for purposes of section 552.122(b) and the answers reveal the questions themselves. We therefore conclude that the sheriff may withhold the exam information you have marked under section 552.122 of the Government Code.

You have marked a Texas driver's license number under section 552.130 of the Government Code. Section 552.130 excepts from public disclosure information that relates to a Texas motor vehicle operator's or driver's license or permit or Texas motor vehicle title or registration. Gov't Code § 552.130(a)(1), (2). We note section 552.130 protects personal privacy. In this instance, the requestor is the spouse of the individual whose private information you have marked under section 552.130. Thus, the requestor may be this individual's authorized representative. If the requestor is the authorized representative of the

individual at issue, then he would have a right of access under section 552.023 of the Government Code to the Texas driver's license number you have marked. *See* Gov't Code § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to that person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Thus, if the requestor is the individual's authorized representative, the sheriff may not withhold the Texas driver's license number you have marked under section 552.130 of the Government Code and it must be released to this requestor. However, if the requestor is not the authorized representative of the individual at issue, then the sheriff must withhold the Texas driver's license number you have marked under section 552.130 of the Government Code.

Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov't Code § 552.137(a)-(c). You have marked e-mail addresses within the submitted information that are subject to section 552.137(a). You state you have not received consent to release these e-mail addresses. Therefore, the sheriff must withhold the e-mail addresses you have marked pursuant to section 552.137 of the Government Code.<sup>1</sup>

In summary, the sheriff must withhold the information we have marked as CHRI under section 552.101 of the Government Code in conjunction with chapter 411. The sheriff may withhold the information you have marked under section 552.122 of the Government Code. If the requestor is not the authorized representative of the individual whose Texas driver's license number is at issue, then the sheriff must withhold this information, which you have marked, under section 552.130 of the Government Code. The sheriff must withhold the e-mail addresses you have marked under section 552.137 of the Government Code. The remaining information must be released to this requestor.<sup>2</sup>

---

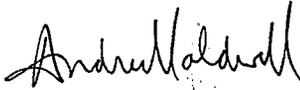
<sup>1</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 552.130 of the Government Code and e-mail addresses of members of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>2</sup>We note that the information being released contains confidential information to which the requestor has a right of access. *See* Gov't Code § 552.023(a); ORD No. 481 at 4. Therefore, if the sheriff receives another request for this same information from a different requestor, then the sheriff should again seek a decision from this office.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Andrea L. Caldwell  
Assistant Attorney General  
Open Records Division

ALC/eeg

Ref: ID# 381586

Enc. Submitted documents

c: Requestor  
(w/o enclosures)